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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,940	03/11/2004	Charles B. Worrick III	00216-663001 / Case 8133	8001

27752 7590 10/06/2006

THE PROCTER & GAMBLE COMPANY  
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CINCINNATI, OH 45224

EXAMINER

LANDRUM, EDWARD F

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 10/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

11

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/799,940		WORRICK, CHARLES B.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Edward F. Landrum		3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 and 35-51 is/are pending in the application.
- 4a) Of the above claim(s) 1-20 and 35-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-26, and 29-33 is/are rejected.
- 7) ☒ Claim(s) 27 and 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/15/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the trimming cap 535 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

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2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rozenkranc (U.S Patent No. 6,276,064).

Rozenkranc teaches (see Figures 1-4) a housing (2) with a front edge (closest to guard 6) and a rear edge (closest to blade 4). A trimming assembly is attached to the housing and contains a trimming blade (4), a trimming guard (portion of housing in front of the trimming blade as shown in Figure 1), and a trimming cap (portion of housing above the trimming blade as shown in Figure 3a). A connecting member (depressions at pivot point 7) is configured to attach the housing to a handle (1). Figure 3 shows the trimming device capable of being guided along a skin surface using the handle.

Rozenkranc teaches all of the elements of the current invention as stated above except the trimming assembly being a separate piece from the housing and connected to the housing.

It would have been an obvious matter of design choice to modify Rozenkranc by having the trimming assembly be a separate piece and connected to the housing, since applicant has not disclosed that making the trimming assembly a separate piece solves any stated problem or is for any particular purpose and it appears that the trimming assembly would perform equally well either permanently or non-permanently attached

to the housing. Furthermore, it has been held that the mere fact that a given structure is integral does not preclude it from consisting of various elements.

4. Claims 21-26, and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Koeppen (German Patent No. DE3635553) in view of Rozenkranc.

Koeppen teaches (see Figure 1b) a housing (2) having a front edge and a rear edge with one or more shaving blades (5) between the front and rear edges. A connecting member (3), connected to the housing (2), is configured to releasably connect the housing (2) to a handle (1). The connecting member includes deflectable elements (see abstract) that define an opening (around 51) for a protrusion (50) attached to the handle (1). The protrusion (50) has an enlarged, angled distal end greater than the dimension of the opening such that inserting the protrusion deflects the deflectable elements. A movable pusher (53) is extended to disengage the handle (1) with the connecting member (3). The pusher (53) engages the deflectable elements to disengage the deflectable elements from the side surface of the protrusion.

Koeppen teaches all of the elements of the current invention as stated above except a trimming assembly, containing a blade, a cap, and a guard, separate but attached to the housing wherein the trimming blade can be guided along a skin surface by the handle.

Rozenkranc teaches (see Figures 1-4) a trimming assembly attached to a housing (2) that contains a trimming blade (4), a trimming guard (portion of housing in front of the trimming blade as shown in Figure 1), and a trimming cap (portion of

housing above the trimming blade as shown in Figure 3a). Figure 3 shows the trimming device capable of being guided along a skin surface using the handle.

It would have been obvious to have modified Koeppen to incorporate the teachings of Rozenkranc to incorporate a trimming assembly containing a guard, cap, and blade capable of being guided along a skin surface for the purpose of enabling a user to properly trim sideburns and similar positions while preventing possible nicks and scratches, thereby enhancing the overall utility of the shaving device.

It would have been an obvious matter of design choice to modify the modified device of Koeppen by having the trimming assembly be a separate piece and connected to the housing, since applicant has not disclosed that making the trimming assembly a separate piece solves any stated problem or is for any particular purpose and it appears that the trimming assembly would perform equally well either permanently or non-permanently attached to the housing. Furthermore, it has been held that the mere fact that a given structure is integral does not preclude it from consisting of various elements.

5. Claims 21-23, 25, and 32, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Apprille et al (U.S Patent No. 5,965,851), hereinafter Apprille, in view of Rozenkranc.

Apprille teaches (see Figures 2, and 7-11) a housing (16) having a front edge and a rear edge with one or more shaving blades (18) between the front and rear edges. A connecting member (24), connected to the housing (16), is configured to releasably connect the housing (16) to a handle (12). The connecting member includes

a deflectable element (44) that defines an opening (32) for a protrusion (26) attached to the handle (12). The protrusion (26) is larger than the dimension of the opening (32) such that inserting the protrusion (26) deflects the deflectable element (44). A movable pusher (80) is extended to disengage the handle (12) with the connecting member (24). A plunger (45) extends through the protrusion (26) to engage the housing of the cartridge (16). Furthermore, the connecting element (24) provides a pivot structure (the ends of arms 28) defining a pivot axis for pivoting the housing (16) with respect to the connecting member (24).

Apprille teaches all of the elements of the current invention as stated above except a trimming assembly, containing a blade, a cap, and a guard, separate but attached to the housing wherein the trimming blade can be guided along a skin surface by the handle.

Rozenkranc teaches (see Figures 1-4) a trimming assembly attached to a housing (2) that contains a trimming blade (4), a trimming guard (portion of housing in front of the trimming blade as shown in Figure 1), and a trimming cap (portion of housing above the trimming blade as shown in Figure 3a). Figure 3 shows the trimming device capable of being guided along a skin surface using the handle.

It would have been obvious to have modified Apprille to incorporate the teachings of Rozenkranc to incorporate a trimming assembly containing a guard, cap, and blade capable of being guided along a skin surface for the purpose of enabling a user to properly trim sideburns and similar positions while preventing possible nicks and scratches, thereby enhancing the overall utility of the shaving device.

It would have been an obvious matter of design choice to modify the modified device of Apprille by having the trimming assembly be a separate piece and connected to the housing, since applicant has not disclosed that making the trimming assembly a separate piece solves any stated problem or is for any particular purpose and it appears that the trimming assembly would perform equally well either permanently or non-permanently attached to the housing. Furthermore, it has been held that the mere fact that a given structure is integral does not preclude it from consisting of various elements.

***Allowable Subject Matter***

6. Claim 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments with respect to claims 21-33 have been considered but are moot in view of the new ground(s) of rejection.

Since there is no positive structure claimed for either the trimming guard or trimming cap Rozenkranc does disclose both, and making the trimming assembly separable from the housing would have been a design choice based ease of manufacturing and what was most cost efficient.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon



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hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). Therefore adding a trimming assembly to either Koeppen or Apprille is deemed proper because Rozenkranc has shown that it is old and well known to do so.

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Peyser (U.S Publication No. 2002/0189112), Lazarchik et al (U.S Patent No. 5,157,835), Lazarchik (U.S Patent No. 4,739,553), Coffin (U.S Publication No. 2003/0014871), Spahr (U.S Patent No. 1,639,441), and Metcalf et al (U.S Patent No. 5,890,296) teach removable housings on shaving devices.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward F. Landrum whose telephone number is 571-272-5567. The examiner can normally be reached on Monday-Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EFL  
9/20/2006



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